

REMARKS/ARGUMENTS

This paper responds to the Office communication of June 26, 2008 in which the Examiner subjected claims 1-14 and 16-49 to a restriction requirement.

Restriction and Election of Claims

In the Office communication, two groups were identified:

- Group I, claims 1-14, 16-17, and 22-49, drawn to a method of preparing a microorganism comprising a deletion of the *tpiA* gene and a deletion of at least one gene involved in the conversion of methylglyoxal into lactate;
- Group II, claims 18-21, drawn to a method of preparing 1,2-propanediol using the microorganism of Group I.

Applicant hereby respectfully traverses the restriction requirement set forth by the Examiner, but provisionally elects Group I, which encompasses claims 1-14, 16-17, and 22-49. Applicants traverse the restriction requirement on the grounds that one of the special technical features linking Group I and Group II is that the microorganism recited in Group I and which produces the 1,2 propanediol of Group II is an evolved microorganism. This element is, in fact explicitly recited in both claim 1 and claim 18. The production of evolved microorganisms is not discussed or even contemplated by Cameron. As discussed in the instant specification and as required by the claims, the evolved microorganism arises from the deletion of the *tpiA* gene and at least one gene involved in the conversion of methylglyoxal into lactate. No recombinant genes are necessary for the evolution. This strategy is illustrated in Fig. 1 of the instant application. In contrast, Cameron specifically requires the use of recombinant reductive enzymes. This requirement is specifically illustrated in Fig. 1 of Cameron and further recited in claim 1. Therefore, neither PCT Rule 13.2 nor 13.1 apply in the instant case. The requirement for restriction being thus overcome, applicants respectfully request withdrawal and examination of all the claims submitted in the application.

Finally, applicants point out that the instant application is a 371 National Phase entry from PCT/FR/2005/000070 and was the subject of an International Search Report and Written Opinion provided by the International Searching Authority. Further, PCT/FR/2005/00070 includes claims corresponding to those of the instant application, including claim 18. In

searching the International Application and in providing the Written Opinion, the ISA did not find any lack of Unity of Invention. Further, applicants point out that the Cameron patent was expressly considered by the ISA. Further, applicants point out that even though the PCT counter part of the Cameron application was expressly considered, the ISA did not find that publication unity destroying nor did it cite to PCT Rule 13.2.

The required elections having now been made, this application now stands in allowable form and reconsideration and allowance is respectfully requested.

Conclusion

This response is being submitted on or before July 26, 2008, making this a timely response. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

Respectfully submitted,

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Date: July 25, 2008

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